

1894. 8. 3/5
The CASE of SODOMY,

IN THE

TRYAL

Touche OF *John* K.

MERVIN Lord Audley,
Earl of Castlehaven,

FOR

Committing a RAPE, And SODOMY
with two of his Servants, viz. (LAURENCE
FITZ PATRICK and THOMAS BRODWAY)
who was Try'd and Condemn'd by his Peers
on the 25th of April, and Beheaded on
Tower-Hill, May 14th, 1631.

WITH

His Articles of Belief, sent in a Letter to his
Son; the Letter he writ to his four Sisters,
and his Speech at the Place of Execution.

LIKEWISE

The Tryal and Condemnation of LAURENCE
FITZ PATRICK and THOMAS BRODWAY,
who were Executed at Tyburn, July 6th
With their Dying Speeches.

Printed from an Original Manuscript.

L O N D O N,

Printed for John Morpew near Stationer's-Hall. 1708.

THE CASE OF SODOMY.

THE CASE OF SODOMY.

Hand of Christ

BRITISH
1945



170. *Leucostictus*



T H E
T R Y A L
O F

*Mervin Lord Audley, Earl
of Castlehaven for Sodomy, &c.
April 25th, 1631.*

TH E Lord Coventry Lord Keeper of *The Arraign*
the Great Seal of *England*, was ap-^{ment.}
pointed Lord High Steward for that
Day, who having Orders for the said Tryal
from his Majesty, gave Directions for the
same.

The Lords the Peers took their Places
about 8 of the Clock in the Morning, and
were seated on Benches on each side of a
large Table cover'd with Green Cloth, and
below them were the Judges plac'd, and the
King's learned Council, and the Officers of
the Court; and having dispos'd of themselves
in their several Places, the Lord Steward a-
bout 9 of the Clock enter'd the Hall unco-
ver'd, with seven Maces carry'd before him
by seven Serjeants at Arms, and was attended
upon by Sir *John Burroughes* Garter Principal
King of Arms, and Mr. *James Maxwell* Usher
of the Black Rod.

B

After

After the Lord Steward had saluted all the Lords the Peers, (who saluted him again) he presently ascended the State, and being seated in the Chair, he was presented with his Majesty's Commission, by one of the Masters of the *Chancery*, which bare Date the 13th of *April* 1631.

After he had receiv'd the said Commission, he commanded an *O Yes* to be made, by one of the Serjeants at Arms, for a general Silence; and then deliver'd the said Commission to Sir *Tho. Fanshaw* Clerk of the Crown, to be openly read: Which being done Mr. *Maxwell* kneel'd down and presented his Lordship with a White-Staff *Verge* of State, which he gave to one of the Serjeant's at Arms, who held the same up by the Cloth of State, on the Right-hand thereof, and after the Commission was read, and the Staff receiv'd as aforesaid, his Grace commanded a Solemn *O Yes* to be made, and then gave Leave to all the Lords the Peers, and the Judges, and to all Privy Councillors here present to be cover'd; and Command was given that none under that Degree should keep on their Hats, upon Pain of Imprisonment, and then the Peers were severally call'd by their Names, and each of them answer'd particularly, *viz.*

1. Lord WESTON Lord High Treasurer of England.
2. Earl of MANCHESTER Lord Privy Seal.
3. Earl of ARUNDELL and SURRY, Earl-Marshal.
4. Earl of PEMBROKE and MONTGOMERY, Lord Chamberlain.

5. *Earl of KENT.*
6. *Earl of WORCESTER.*
7. *Earl of BEDFORD.*
8. *Earl of ESSEX.*
9. *Earl of DORSET.*
10. *Earl of SALISBURY.*
11. *Earl of LEICESTER.*
12. *Earl of WARWICK.*
13. *Earl of CARLISLE.*
14. *Earl of HOLLAND.*
15. *Earl of BERKS.*
16. *Earl of DANBY.*
17. *Viscount WIMBLETON.*
18. *Viscount CONOWAY.*
19. *Viscount DORCHESTER.*
20. *Viscount WENTWORTH.*
21. *Lord PERCY.*
22. *Lord STRANGE.*
23. *Lord CLIFFORD.*
24. *Lord PETER.*
25. *Lord NORTH.*
26. *Lord GORING.*

The Judges present,

*Sir NICHOLAS HYDE, Lord Chief Justice
of the King's-Bench.*

*Sir THOMAS RICHARDSON, Lord Chief
Justice of the Common-Pleas.*

*Sir HUMPHREY DAVENPORT, Lord Chief
Baron of the Exchequer.*

Baron DENHAM.

Judge JONES.

Judge HUTTON.

Judge WHITLOCK.

Judge CROOKE.

The King's Council.

Serjeant CREW.

Sir ROBERT HEATH *Attorney General.*

Sir RICHARD CHELTON *Sollicitor General.*

Sir JOHN FINCH.

The Officers of the Court.

Sir THO. FANSHAW *Clerk of the Crown.*

Mr. JOHN KEELING, *his Deputy or Assistant.*

This done, the Lord Steward, after a solemn Precognizance, commanded the Indictments to be certify'd and brought in, and then by a Serjeant at Arms the Lieutenant of the *Tower* was call'd to bring forth the Prisoner (who untill that Time was kept in a little Room by the *Common Pleas*) and the Lieutenant brought him to the Bar, with divers of the Guard attending on him, where he had a Place in manner of a Pew, lin'd with Green, in which he stood, and the Lieutenant had another of the same Form for him to rest in adjoining to it; and when he had done his Obeysance to the Lord High Steward and the Peers, (who all re-saluted him again) the Lord High Steward spake to him in the manner following:

My

My Lord Audley,

TH E King hath understood, both by *The Lord*
 Report and the Verdict of divers Gen-*High Steward's*
 tlemen of Quality in your own Country, that *Speech.*
 you stand Impeach'd of sundry Crimes of a
 most high and heinous Nature; and to try
 whether they be true or not, and that Ju-
 stice may be done accordingly, his Majesty
 brings you this Day to your Tryal, doing
 herein like the mighty King of Kings, in
 the 18. of *Genesis*, V. 20, 21. who went down
 to see whether their Sins were so Grievous
 as the Cry of them. *Because the Cry of So-*
dom and Gomorra is Great, and their Sins
be Grievous, I will go down (saith the Lord) *and*
see whether they have done altogether according
to the Cry of it. And Kings on Earth
 can have no better Pattern to follow than
 the King of Heaven, and therefore our So-
 vereign Lord the King, God's Vicegerent
 here on Earth, hath commanded that you
 shall be here try'd this Day, and to that
 End hath caus'd these Peers to be Assembled,
 and the Desire of His Majesty is, that your
 Tryal shall be as equal as Equity and Justice
 it self; and therefore these Noble-Men your
 Peers [whose Hearts are as full of Integrity,
 Justice and Truth as their Veins full of
 Noble Blood] are this Day to try you;
 wherefore if you be Innocent speak boldly
 and confidently, and fear not to justify your
 self, and be assur'd that those that Accuse
 you [if you be free your self] shall not e-
 scape free. But if you be guilty of those
 Crimes, I advise you to give Honour to God
 and the King, and confess your Fault; for
 it is not vain Confidence, nor Subtilty, nor
 stand-

standing out in Denial that can hide the Truth, and all Shifts and Subtilties against it are but *Consilia adversus Dominum*; therefore, if Truth touch you at the Heart, and your Conscience which is a thousand Witnessess, and God's Grace which is greater than both, stand not out against it. And if you do, God will put it into the Hearts of these Noble Personsto find it out, and to do that which is just.

May it please your Grace,

*The Lord
Awdley's
Answer.*

I Have been a close Prisoner these six Months without Friends, without Council or Advice, I am ignorant of Advantages and Disadvantages of the Law, and am but weak of Speech at the best, and therefore I desire to have the Liberty of having Council to speak for me.

*The Lord High
Steward's Re-
ply.*

For your so long Imprisonment it hath been to you a special Favour; for you have had Time enough to bethink your self, and more than ever any Man had that hath been committed for such an Offence, and more Favour than ever any had that came to this Bar. And you shall demand nothing which the Law can allow, but you shall have it: But for your Demand I must move it to the Lords the Judges, and they shall satisfy you in it or any other Thing you desire.

Then his Grace desir'd to be resolv'd of the Judges, whether this Demand of my Lord Awdley, to have a Council to plead for him, might be granted or not?

The Judges answer'd, that in Criminal Causes Council is not to be admitted for Matter of Fact, but for Matter of Law they may.

Then

Then the Lord Steward proceeded to the Charge, and commanded the three Indictments to be read by Sir Tho. Fanshaw Clerk of the Crown, two for Sodomy with Lawrence Fitz Patrick his Footman, the third for a Rape committed on his own Wife the Countess of Castlehaven. Then being ask'd whether he was Guilty of them or not Guilty? He answer'd not Guilty.

Then he was ask'd how he would be Try'd? The Earl said, By God and my Peers: Whereupon the Peers put off their Hats, and thereupon the Issue was join'd.

My Lords,

THE Prisoner stands Indicted for a Rape by one Indictment, and of Sodomy by two, and he hath pleaded not Guilty to them all: It is my Duty to Charge you with the Tryal of it, and you are to judge of it.

The Lord High Steward's Speech to the Lords.

The Offences wherewith he stands charg'd, are to be prov'd by Evidence; and because the Crimes that comes this Day before us, may in some breed Detestation, and the Person of his Lordship in others may breed Compassion, I desire your Lordships to set these two aside, and let your Reason sway your Judgment, and let that rule your Affections, and your Hearts your Heads; for neither of these ought to be put into the Ballance, for a Grain on either Side may sway the Scale. You are to give attentive Hearing, and then to weigh equally that the Scale may lean the right Way. The Judges will assist you in the Point of Law, which if you doubt of you are to expound it to me, and I to them. And this you are to do without Corporal Oath, for the Law con-

conceiveth you of such Integrity, that you will do that for Justice which others do upon their Oaths, and therefore admit of no Challenge, and God direct you to do as you ought.

Then Sir Tho. Crew gave the first Charge; and after him Mr. Attorney said as followeth,

My Lord Steward,

*Mr. Attorney
General's
Speech to my
Lord High
Steward.*

MA Y it please your Grace there are three Indictments against *Mervin Lord Audley*. The first for a *Rape*, the other two for *Sodomy*.

The Person is Honourable, the Crimes of which he is Indicted Dishonourable, which if it fall out to be true, [which is to be left to Tryal] I dare be bold to say never Poet invented, nor Historian writ of any so foul: And although *Suetonius* hath curiously set out the Vices of some of the Emperors who had absolute Power, which might make them fearless of all manner of Punishment, and besides were Heathens and knew not God, yet none of these came near this Lord's Crimes. The one is a Crime that I may speak it to the Honour of our Nation, is of such Variety that we seldom or never knew of the like, and for the other we scarce heard of the like, but they are of such a pestilential Nature, that if they be not punish'd they will draw from Heaven a heavy Judgment upon this Kingdom.

Whereupon (Mr. Attorney digressing from the Matter) the Lord Audley would have interrupted him, and requir'd to hold him to the Points in the Indictments. But the Lord High Steward desir'd

desir'd his Lordship to be patient, and assur'd him he should be heard in fit time at full. Whereupon Mr. Attorney proceeded again in his Charge as followeth.

May it please your Grace, I can speak it *Mr. Attorney* with Joy and Comfort, that during all my *proceeds.* Time of Service both in his Majesty's Father's Time, and since he came to the Crown, I had never the like Occasion to speak in this Place against a Peer of the Realm before now, and God knows I do it now with Sorrow, and I hope I shall never have the like Occasion to do so much again; but his Majesty who is the Pattern of Vertue, not only as King, but in his Person also, in whom it is hard to judge whether he most excels in Justice or Mercy, but I rather think in Mercy, for he would have my Lord *Audley* [the Prisoner at Bar] heard with as much Favour as such a Crime can admit; and when he first heard of it he gave strict Command that the Truth should be search'd out, that his Throne and People might be clear'd from so heavy and heinous Sins, and thereupon he was Indicted in his own Country according to the Law, and by Gentlemen of Worth and Quality. The Bill was found, and now he is personally brought to this Bar to be try'd by these his Honourable Peers, such of whose Wisdom and Sincerity there can be no Question but that he shall have a just and honourable Tryal, and first I shall begin with the Indictment of Rape. *Bracton* tells us of King *Athelstone's* Law before the Conquest: *If the Party were of no chaste Life, but a Whore, yet there may be a Ravishment; but it is a good Plea to say she was his Concubine.*

C

In

In an Indictment of Rape there is no Time of Prosecution necessary, for *nullum Tempus occurrit Regi*: But in Case of an Appeal of Rape if the Woman did not prosecute in convenient Time it will bar her.

If a Man take away a Maid by force and ravish her, and afterwards she give her Consent and Marry him, yet it is a Rape.

For the *Crimen Sodomiticum* our Law had no Knowledge of it till the 15. H. 8. by which Statute it was made Felony, and in this there is no more Question but only whether it be *Crimen Sodomiticum sine Penetratione*, and the Law 15. Eliz. sets it down in general Words, and where the Law doth not distinguish neither must we. And I know you will be Curious how you will give the least Mitigation to so abominable a Sin, which brought such Plagues after it as we may see in 17. Gen. 18. Levit. 19. Judg. 1. Rom. But [my Lord] it seem'd to me strange at the first, how a Nobleman of his Quality should fall to such abominable Sins, but when I found he had given himself over to Lust, and that *Nemo repente fit Fissimus*, and if once Men habit themselves in ill, it is no Marvel if they fall into any Sins, and that he was constant to no Religion, but in the Morning he would be a Papist and go to Mass, and in the Afternoon a Protestant and go to a Sermon. When I had consider'd these Things, I easily conceiv'd, and shall be bold to give your Grace a Reason why he became so ill. He believ'd not God, he had not the Fear of God before his Eyes. He left God, and God left him to his own Wickedness, and then What may not a Man run into? What Sin so foul? What thing so

so odious, which he dares not adventure? But I find in him Things beyond all Imagination, for I find his ill Imagination, for I find his ill Intentions bent to have his Wife naught with the Wickedest Man that ever I heard of before; for who would not have his Wife Vertuous and Good, how bad soever himself be? And I find him Baud to his own Wife. If she love him, she must love *Skipwith* [whom he honour'd above all] and not in any honest Love, but in a dishonest Love, and he gives his Reasons by Scripture: *She was now made Subject to him*, and therefore if she did ill at his Command, it was not her Fault but his, and he would answer it. His irregular Bounty toward *Skipwith* was also remarkable. He lets this *Skipwith* [whom he calls his Favourite] spend of his Purse 500 l. per Annum, and if his Wife or Daughter would have any thing tho' never so necessary, they must lie with *Skipwith*, and have it from him, and not otherwise, also telling *Skipwith* and his Daughter-in-Law he had rather have a Child by him than any other. But for these Things I had rather they should come forth of the Witnesses Mouths than from me, and thereupon desir'd that the Proof might be read.

Walter Bigg depofed that *Amptil* was a *Depofition of* Page to Sir *H. Smith*, and had no *Walter Bigg*. more Means when he came to my Lord *Audley* but the Mare he rode on. He entertain'd him as his Page eight Years, and afterwards let him keep Horses in my Lord's Grounds, by which I think he enrich'd himself 2000 l. but he never fat at Table with my

Lord till he had Marry'd his Daughter, and then gave him to the Value of 7000 l.

That *Skipwith* was sent from *Ireland* to be my Lady's Page, and that his Father and Mother were very poor Folks there. He spent of my Lord's Purse *per Annum* 500 l. and he gave him at one Time 1000 l. and hath made diverse Deeds of Land unto him.

My Lord was at first a Protestant, but after by buying of *Founthill* he turn'd his Religion.

That *Henry Skipwith* had no Means when he came to him, and that he had given him 1000 l. and that *Skipwith* lay with him when he was straitned in Rooms, and that he gave a Farm of 100 l. *per Annum* to *Amptil* that Marry'd his Daughter, and at other times to the Value of 7000 l. and that there was one *Blandina* in his House fourteen Days, and bestow'd an ill Disease there, and therefore he sent her away.

The Lord Audley's Examination taken before the Lord Keeper, Lord Treasurer, Lord Marshal and others; which being shew'd to him subscrib'd with his own Hand, he would not acknowledge it, but excus'd it, saying his Eyes were bad, but being perfectly read, he acknowledg'd it.

The Lord Steward's Advice to my Lord Audley.

My

My Lord,

I Would advise you not to deny the Things which are clearly prov'd, for then the Lords will give less Credit to the rest you say.

That shortly after the Earl Marry'd her. *The Countess of Castlehaven's Examination.*
viz. the first or second Night, *Amptil* came unto the Bed's-side whilst she and her Husband were in Bed, and the Lord *Audley* spake Laciviously to her, and told her that now her Body was his, and that if she lov'd him she must love *Amptil*, and that if she lay with any other Man with his Consent, it was not her Fault but his, and that if it was his Will to have it so, she must Obey and do it.

That he attempted to draw her to lie with his Servant *Skipwith*, and that *Skipwith* made him believe he did it, but did it not.

That he would make *Skipwith* come naked into his Chamber, and delighted in calling up his Servants to shew their Privities, and would make her look on, and commended those that had the Largest.

That one Night being abed with her at *Fount-hill*, he call'd for his Man *Brodway*, and commanded him to lie at his Bed's-feet, and about Midnight, (she being asleep,) call'd him to light a Pipe of Tobacco, *Brodway* rose in his Shirt, and my Lord pull'd him into Bed to him and her, and made him lie next to her, and *Brodway* lay with her, and knew her Carnally, whilst she made Resistance, and the Lord held both her Hands, and one of her Legs the while, and that as soon as she was free, she would have kill'd herself with a Knife, but that *Brodway* forceably

ably took the Knife from her and broke it, and before that Act of *Brodway* she had never done it.

That he delighted to see the Act done, and made *Skipwith* to come into Bed with them, and lie with her whilst he might see it, and she cry'd out to have saved herself.

Then *Laurence Fitz Patrick* was produc'd, but before his Examination was read, the Earl desir'd that neither he nor any other might be allow'd Witnesses against him, untill he had taken the Oath of Allegiance. This was referr'd to the Lords the Judges.

The Judges
Resolution.

The Judges resolve against him, that they might be Witnesses unless they were convicted Recufants.

The Examination
of Fitz
Patrick was
then read, the
Truth of which
he then again
confirmed upon
Oath.

THat the Earl had committed *Sodomy* twice upon his Person, that *Henry Skipwith* was the special Favourite of my Lord *Audley*, and that he usually lay with him, and that *Skipwith* said, that the Lord *Audley* made him lie with his own Lady, and that he usually made him lie with the young Lady, and that he saw *Skipwith* in his Sight do it, my Lord being present, and that he lay with *Blandina* in his Sight, and four more of the Servants, and afterwards the Earl himself lay with her in their Sights.

Skipwith's
Examination.

Then *Skipwith* was produc'd and sworn, and his Examination read, which he again confirm'd upon Oath, and deposeth,

THat the Earl often sollicitated him to lie with the young Lady, and perswaded her to love him; and to draw her thereunto he urg'd that his Son lov'd her not, and that

that in the End he usually lay with the young Lady, and that there was Love between them both before and after; and that my Lord said, he would rather have a Boy of his begetting than any others; and that she was but Twelve Years of Age when he first lay with her; and that he could not enter her Body without Art, and that the Lord *Audley* fetch'd Oyl to open her Body, but she cry'd out and he could not enter, and then the Earl appointed Oyl the Second time, and then *Skipwith* enter'd her Body and knew her Carnally; and that my Lord made him lie with his own Lady, but he knew her not, but told his Lord he did.

That he spent 500 *l. per Annum* of the Lord's Purse, and for the most Part he lay with the said Earl.

That the Earl gave him his House at *Salisbury*, and a Manor of 600 *l. per Annum*.

That *Blandina* lay in the Earl's House half a Year, and was a Common Whore.

THAT the Lord *Audley* made him lie with him at *Founthill*, and at *Salisbury*, and once in the Bed, and emitted between his Thighs, but did not penetrate his Body; and that he heard he did so with others.

Fitz Patrick's 2d.
Examination.

That *Skipwith* lay with the young Lady often, and ordinarily, and that the Earl knew it, and encourag'd him in it, and wish'd to have a Boy by him and the young Lady.

That *Blandina* lived half a Year in my Lords House, and was a Common Whore.

He

Edmund
Scott's Ex-
amination.

HE deposeth that *Skipwith* frequently knew the young Lady, and that the Earl knew it, and encourag'd him therein.

Fry's Exa-
mination.

That *Henry Skipwith* and the young Lady lay often together, and the Earl in Company, and that then the Earl protested, that he would fain have a Boy of his be-
getting.

Then was read
the young La-
dy Audly's
Examination.

That she was married to her Husband by a Romish Priest in the Morning, and at Night by a Prebend at *Kilkenny*; That she was first tempted to lie with *Skipwith* by the Earl's Allurements, and that she had no Means but what she had from *Skipwith*; but she would not lie with *Pawlet*; he sollicitted her also to lie with one *Green*.

That the Earl himself saw her and *Skipwith* lie together divers times, and Nine Servants of the House had also seen it.

When the Earl sollicitted her first, he said, that upon his Knowledge her Husband loved her not, and threaten'd that he would turn her out of Doors, if she did not lie with *Skipwith*; and that if she did not, he would tell her Husband she did.

That she being very young, he us'd Oyl to enter her Body first, and afterwards he usually lay with her; and it was with the Earl's Privy and Consent.

Brodway's
Examination
who confesseth,

That he lay at the Earl's Bed's-Feet, and one Night the Earl call'd to him for Tobacco, and as he brought it in his Shirt he caught hold of him, and bid him come

to Bed, which he refused; but to satisfy my Lord, at last he consented and came into the Bed on my Lord's Side: Then my Lord turn'd him upon his Wife, and bid him lie with her, which he did, and the Earl held one of her Legs and both her Hands, and at the last (notwithstanding her Resistance) lay with her.

That the Earl used his Body as the Body of a Woman, but never pierc'd it, only emitted between his Thighs.

He hath seen *Skipwith* lie with the young Lady in Bed together, and when he had got upon her, the Earl stood by and encourag'd him to get her with Child; and that he hath made him the said *Brodway*, kiss his own Lady, and often solicited him to lie with her, telling him, that he himself should not live long, and that it might be his making; and that he hath said the like to *Skipwith*.

THAT one Night the Earl lying in Bed with her at *Founthill*, he call'd for his *Man* *Brodway*, and commanded him to lie at his Bed's Feet, and about Midnight (she being asleep) call'd to him to light him a Pipe of Tobacco. *Brodway* rose in his Shirt, and the Earl pull'd him into Bed to him and her, and made him lie next to her; and *Brodway* lay with her and knew her carnally, whilst she made Resistance, and the Earl held both her Hands and one of her Legs the whilst; whereupon as soon as she was free she would have kill'd herself with a Knife; but that *Brodway* forceably took the Knife from her and brake it, and before that Act of *Brodway* she had never done it.

D

That

That the Lord delighted to see the Act done, and made him come into Bed to them and lie with her whilst he might see it, and she cryed out to have saved herself.

The Earl's Second Examination.

THE Earl desir'd to be pardon'd of those things whereof he must accuse himself, and said, *That Condemnation should not come out of his own Mouth.*

These Testimonies read, Mr. Attorney press'd things very earnestly, and in excellent Method against the Earl, and said,

My Lords,

Mr. Attorney's Speech.

YOU have seen the Clearness of the Proofs, and I know your Wisdoms to be such, (as you well know) in so dark a Business clearer Proofs cannot possibly be had; for let a Man be never so wicked, or never so impudent, he will not call Witnesses to see his Wickedness, yet you see here this Point fully prov'd.

Then he shew'd how both the Laws of God and Man be against Sodomy, and cited *Levit. 18* towards the end, *That by these Abominations the Land is defiled, and therefore the Lord doth visit this Land for the Iniquity thereof.* And then concludes, that God may remove and take away from us his Plagues, Let this wicked Man [saith he] be taken away from amongst us.

Then the Earl [after the Lord Steward had told him that he should be heard in his own Defence, with as much Patience as was admitted in his Charge] enter'd into his own Defence. But the Lord Steward advis'd him to speak pertinently; whereupon he alledg'd that he was

a Weak Man, and of ill Memory, and therefore desir'd that he might not be interrupted.

Then he began his Defence with Exceptions against his Wife, urging that she was naught and dishonest with *Brodway* by her own Confession. *The Earl's Exceptions.*
I.

Whereunto the Lord Steward answer'd, *That this made against his Lordship, therefore he ought not to alledge for his Defence that Fact, as an Imputation to his Wife, which he forc'd her unto by Compulsion and Violence.*

Then he objected against the Incompetency of the Witnesses; as the one his Wife, the other his Servants, and they drawn to this by his Son's Practice, who sought his Life; and he desir'd to know if there were not a Statute against the Incompetency of Witnesses? II.

The Judges resolv'd him that there was none touching Witnesses, but in Cases of High Treason there was a Statute concerning Accusers. *The Judges Resolution.*

Then he desir'd to be resolv'd, whether, because *Brodway* doth not depose any Penetration, but only that he Emitted upon her Belly while the Earl held her, that should be judg'd Felony as for a Rape? III.

The Judges resolved it to be a Rape, and so consequently to be Felony. *The Judges Answer.*

Then he desir'd to be resolv'd, whether his Wife is to be allow'd a competent Witness against him, or not? IV.

The Judges resolve, that in Civil Cases the Wife may not, but in a Criminal Cause of this Nature, where the Wife is the Party griev'd, and on whom the Crime is committed, she is to be admitted a Witness against her Husband. *The Judges Answer.*

Then the Lord High Steward desir'd the Lords the Judges to resolve the Questions which Mr. Attorney in his Charge submitted and referr'd to their Judgments.

1. Whether it were to be accounted Buggery within the Statute, without Penetration ?

The Judges Answer.

The Judges resolve, that it was, and that the Use of the Body so far as to Emit thereupon, makes it so.

2. Whether, it being prov'd that the Party Ravish'd were of evil Fame, and of an unchast Life, it will amount to a Rape ?

The Judges Answer.

The Judges resolve it to be a Rape, though committed on the Body of a Common Strumpet ; for it is the inforcing against the Will which makes the Rape ; and a Common Whore may be Ravish'd against her Will, and it is Felony to do it.

3. Whether it is adjudg'd a Rape when the Woman complaineth not presently ? And whether there be a Necessity of Accusation within a convenient Time, as within 24 Hours ?

The Judges Answer.

The Judges resolve, that in as much as she was forced against her Will, and then shew'd her Dislike, she was not limited to any Time for her Complaint ; and that in an Indictment there is no Limitation of Time, but in an Appeal there is.

4. Whether Men of no Worth shall be allow'd sufficient Proofs against a Baron, or not ?

The Judges Answer.

The Judges resolve, that any Man is a sufficient Witness in a Case of Felony.

Then the Lord Steward spake and said,

My

My Lord,

YOU have been graciously dealt with in this Proceeding, for it is not an usual thing in so capital and heinous Causes as this, to bring the Party and the Witnesses Face to Face before Tryal; but [my Lord] you have long before this time heard their Examinations, and question'd and oppos'd them Face to Face, and are thereby the better enabled to make your Defence; and his Majesty is still graciously pleas'd to continue his Goodness towards you, and hath commanded that you should be heard at full: If therefore you have any thing else to say for your self, speak it.

The Lord
Steward's
Address to
the Earl.

Whereupon the Earl answer'd,
(Having first made a solemn Protestation of his Innocency, but nevertheless implor'd the Mercy of God and the King)

That he had nothing more to say, but left himself to God and his Peers and then presented to their Considerations Three Woes.

1. Woe to that Man, whose Wife should be a Witness against him!
2. Woe to that Man, whose Son should persecute him and conspire his Death!
3. Woe to that Man, whose Servants should be allow'd Witnesses, to take away his Life!

And he willed the Lords to take this into their Consideration, for it might be some of their Cases, or the Case of any Gentleman of worth that keeps a Footman; or other, whose Wife is weary of her Husband, or his Son arriv'd to full Age, that would draw his Servants to conspire his Father's Death.

He said further, his Wife had been naught in his Absence, and had had a Child which he conceal'd to save her Honour.

That

That his Son was now become 21 Years Old, and he himself Old and Decay'd, and the one would have his Lands, and the other a young Husband; and therefore by the Testimony of them, and their Servants, added to their own, they had plotted and conspir'd his Destruction and Death.

And then [being thereunto requir'd by the Lord Steward] he withdrew himself from the Bar.

Then the Lord Steward [after solemn Proclamation of Silence] address'd himself to the Lords, and said,

The Lord Steward's Address to the Peers.
 My Lords the Peers,
Your Lordships have heard the Proofs, the Prisoner's Defence, all his Doubts and Questions resolv'd by the Lords the Judges, and therefore your Lordships [if you please] may withdraw your selves, if you are satisfied, because the Prisoner is not call'd to the Bar again until your Lordships are agreed upon the Verdict.

Then the Peers withdrew themselves, and after two Hours Debate, and several Advices and Conferences with the Lord Chief Justice, whom they sent for, and consulted with four several times; having in that time also sent the Earl of Warwick, and Viscount Dorchester, together with the Lord Chief Justice, to consult with the Lord Steward. At the last they return'd to their Places, and then the Lord Steward ask'd them one by one, beginning at the Lowest and so ascending,

1. Whether the Earl of Castlehaven was Guilty of the Rape whereof he stood Indicted, or no? And they all gave him Guilty.

2. Whe-

2. Whether the said Earl of *Castlehaven* was guilty of the *Sodomy* with which he was charg'd or not? And fifteen of the Lords condemn'd him, and the other eleven freed him.

When the Verdict was thus given, the Lieutenant of the *Tower* was again commanded to bring the Prisoner to the Bar to hear his Sentence, and after he was brought the Lord Steward said unto him,

Forasmuch as thou *Mervin* Lord *Audley*, Earl of *Castlehaven*, hast been Indicted for divers Felonies by three several Indictments, one for a *Rape*, the other two for *Sodomy*, and hast pleaded *not Guilty* to them all, and for thy Tryal hast put thy self upon God and thy Peers, which Tryal thou hast had, and they found thee Guilty of them all: What canst thou say for thyself why the Sentence of Death should not be pronounc'd against thee? Whereunto he answer'd, He could say no more, but referr'd himself to God and the King's Mercy.

Then the Lord Steward said, My Heart grieveth for that which my Tongue must utter, but Justice is the Way to cut off Wickedness, and therefore hear thy Sentence.

THOU must go from hence to the Prison from whence thou cam'st, and from thence to the Place of Execution, there to be Hang'd by the Neck till thou be Dead, and the Lord have Mercy on thy Soul. The Sentence.

Oh think upon your Offences! which are so heinous and so horrible that a Christian Man ought scarce to name them, and such as the deprav'd Nature of Man [which of it self The Lord Steward's Exhortation after the Sentence.

self carries a Man to all Sin] abhorreth! And you have not only offended against Nature, but the Rage of a Man's Jealousy! And although you die not for that, that you have abus'd your own Daughter! And having both Honour and Fortune to leave behind you, you would have had the impious and spurious Off-spring of a Harlot to Inherit! Both these are horrid Crimes. But, my Lord, it grieves me to see you stand out against the Truth so apparent, and therefore I will conclude with this Admonition, That God might have taken you away when you were blinded in your Sins, and therefore I hope he hath reserv'd you as a Subject of his Mercy; and as he sends you to see this Day of Shame that you may return unto him, so thereby in a manner he lovingly draws you to him, therefore spend the Remainder of your Time in *Tears* and *Repentance*, and this Day's Work I hope will be a Correction from many Crimes and Corruptions.

Whereupon at last the Earl descended to a low Petition to the Lords, and very humbly besought them to interceed with his *Majesty* that he might not die, but be banish'd, or at least that his *Majesty* would not suddenly cut him off, but give him Time of Repentance. And then he desir'd their Lordships Pardons, in that he had been so great a Stain to Honour and Nobility.

Then a Proclamation being made by a Serjeant, declaring that the Lord High Steward's Pleasure was, that all such as had attended this Day's Service might depart, and then the Lieutenant of the *Tower* carry'd the Earl away, and so the Court broke up.

Here

Here followeth the Articles of the Earl's
Belief, sent in a Letter to his Son.

Son Audley,

GOD gave you Life and Soul, and appointed me an Instrument to be your Father, wherein I have a double Charge to take Care of; [your Body] wherein my Part lieth, you being Bone of my Bone, and Flesh of my Flesh; and likewise to preserve that precious Treasure, which God has infused in you, and you and I are especially to care for, and for which you must give an Account of before the Tribunal of the Divine Majesty, [your Soul.] It is here in this World toss'd with many and sundry Winds, therefore it must be your Care to coast it into some secure Harbour, where it may be anchor'd with an irremoveable Faith. And because your Youth shall be better instructed in the Rules of that Truth, that shall keep the Ship of your Soul steady, I have sent you under my Hand my Belief, wishing you to follow the same. For if you look into Scripture, the Holy Writ of the Sacred Spirit; you shall find the Danger of being toss'd with every Wind; wherefore fill not your Sail with the Blasts of Pride, which is caus'd by Self-conceit and curious Questions. Read the Scriptures and observe them. Obey God's Laws, and the Laws of his Substitute, our most Wise and Religious King; then are you come from Billows to a quiet full Sea; by which means, [no question] you may attain the blessed Sight of our Saviour after this Life, and in this Pilgrimage go on with much Patience and Security.

God Bless you.

Tower, May 1,
1631.

Your Father
CASTLEHAVEN.

The Articles of the Earl's Belief.

IN the Name of God, *Amen.*

I *Mervin, Lord Audley, Earl of Castlehaven,* [being in very good Strength and Memory, Thanks be'given to Almighty God] having been branded, and openly accus'd for Change, Alteration, and Doubtfulness of my Faith and Religion, thought it fit [like a Christian] to give Satisfaction upon what Ground I stand for my Belief, and to express under my own Hand the same, for the Satisfaction of all Charitable People and Christian Men.

1. I do believe in the Glorious and Blessed Trinity, three Persons and one God, Eternal and Everliving, God the Father, God the Son, and God the Holy Ghost.

2. I do rely wholly upon the Merits, Death, and Passion of our Blessed Saviour *Christ Jesus*, and upon his Mediation for the Remission of my Sins.

3. I do believe and use with most humble Reverence the *Lord's Prayer*, the *Creed of the Apostles*, and the *Ten Commandments*, as they are allow'd of and set down in the *Church of England*.

4. I do believe the *Canonical Scriptures*, and that they are written by the *Inspiration* of the *Holy Spirit*.

5. I do believe the *Book of Common Prayer*, allow'd in the *Church of England*, to be an excellent Form in the Service of God, and for that Purpose use the same.

6. For the rest of my *Belief* I do refer it to the true Orthodox Faith of the *Church of England*.

7. And for the *Articles* receiv'd at this present in the *Church of England*, and confirm'd by the *Authority of Parliament*, I differ not in any Point, Renouncing all Superstitions and Errors taught

taught and believ'd in the Church of Rome, or in any other Church; in which Faith I will continue (God willing) to my Life's End, In Testimony whereof I to the Original subscribe my Hand.

CASTLEHAVEN.

A LETTER sent by the Earl to his 4 Sisters.

Dear Sisters,

GOD hath given and God hath taken away, Blessed be the Name of the Lord, who hath redeem'd my Soul from Misery, and open'd mine Eyes to see my Sins against him. Dear Sisters, the shortness of my time is such that I cannot particularly write to you all, but know ye all to your Comforts, the great and infinite Favour that the Blessed Trinity, Three Persons and One God, hath bestow'd upon me through the Sufferings of my Saviour Jesus Christ, upon whose Merits and Supplications I wholly build, and find a Rock of Faith to cleave unto. In my whole Life (I thank God) in all my Sins, which were infinite before the Divine Majesty, I never took so much Comfort, as I do in this which the World calls Misery and Affliction. For when I have drawn my Cogitations together, by what means I should scorn and contemn the World, I can think upon none but this present Blessing bestowed upon me. God hath given me Tears with Peter, and I doubt not but by the Assurance of the most glorious Spirit, shortly to be where that blessed Man had his Tears remunerated with Salvation. The God of Heaven blefs you all, and send you his holy Spirit, that you may turn to him, and serve him with true, contrite and sorrowful Hearts, so shall you at the end of your tedious Journey, find a happy Repose with the great Lord of Lords, that hath bestowed this Blessing upon your late most unfortunate Brother. I thank Almighty God that from the first of my Troubles I laid my self and all earthly things at the Feet of

the Giver, and have not [blessed be his holy Name] repined at anything that it has pleas'd him to lay upon me, but I have gone on chearfully and humbly [God be blessed.] And I pray God bless you all. Pray for me, for you know the Devil will be busy. God send your Souls to have the Vision of my Saviour. Fare you well.

What Title I may give my self I know not, but a Christian sure I am.

To the Right Honourable my dear Sisters, the Lady Ann B—, the Lady Elizabeth G—, the Lady Christian M—, the Lady Elianor D—, or to any of them. Your dear Brother

MERVIN.

Thursday the 14th of May 1631, was appointed for the Earl's Execution, who [although sentenc'd to be hang'd, yet by reason of his noble Extraction and the King's Favour, was permitted to be beheaded] about 9 of the Clock in the Morning, attended by the Lieutenant of the Tower, Dr. Winniff Dean of St. Paul's, and Dr. Wickham the King's Chaplain, the Warders of the Tower, and Twelve of his own Men carrying a black velvet Coffin before him, he ascended the Scaffold on Tower-hill, and there tarry'd half an Hour in private Conference with the Doctors, and after pulling off his Hat and bowing himself to the People, he said; I know that [being brought to this Place where I am to end the Remainder of my ill-spent Days] all here present do expect that I should here say somewhat, but in regard of my Age and the Weakness of my Memory, caused by this my long Affliction of Imprisonment, I hope you will excuse me from making any long Speech; therefore what I shall speak shall be but in brief, and then with a bold Courage and loud Voice he said,

I do

I Do confess that God Almighty hath been a most Gracious God unto me, in bestowing upon me many and great Blessings, which have been most wickedly abus'd by me. He hath given me Titles, nay he hath given me Honour too, but with Sorrow I speak it, I have not made that good Use of them that I should and might have done, for which I most earnestly ask Pardon at his gracious Hands.

The Earl's
Speech at his
Execution.

The King's Majesty, my Sovereign, hath likewise shew'd very much and great Favour towards me, in giving me an Honourable Trial by my Peers, in giving me a long and large Time of Repentance, in which Time I hope, by my true Humiliation and Sorrow for my Sins, I have made my Reconciliation with God; as also which is not the least, for which I most heartily thank his Majesty, that he hath sent me these two Doctors, worthy Divines, for the Instructing and Comforting me for the Good of my Soul, of whom I have receiv'd the Sacrament 3 times, I beseech Almighty God to bless his Majesty, his Royal Queen, and hopeful Issue Prince Charles; and grant that there may never lack one of his Royal Race to succeed him in these Kingdoms.

I do confess that my Sins have been many and great, and such as have deserv'd Death, but for these 2 great Crimes laid to my Charge among the rest, I call God to witness, [in whose Presence I now stand] I am Innocent from them, and not guilty of them. Yet nevertheless, I confess, I have deserv'd Death, and to that End I am brought hither, which God in his Mercy enable me to undergo. And whereas at my Trial there was some Question made of my Religion, I do confess that herein I have been too negligent, and too much externally favour'd Popery and Superstition, but in my Judgment and Opinion I have always held the Pro-

Protestant Religion and the Tenets of the Church of England, howsoever outwardly I have too much favour'd Popery, which God of his infinite Mercy for his Son my Saviour's Sake pardon and forgive me.

Then he held out a Piece of Paper and said, *I have here with my own Hand set down the Articles which I have always believ'd, and will now die in, which by reason of the Weakness of my Sight I am not able to read my self, therefore I desire that they may be read, and then they were openly read with a loud Voice, [being the same Articles aforesaid which he sent to his Son] after which he said I have nothing more to say, but to entreat all these good People here, and all the World to forgive me, for I do forgive all the World, and as for those who were the Cause of my bringing hither, I do as heartily forgive them as I do desire God to forgive me.*

Then he bow'd himself, and went to the Middle of the Scaffold, kneeling down, and lifting up his Hands and Eyes to Heaven, [each Doctor kneeling on either Side of him] he pray'd to God; which Prayer being ended, [after some Conference with the Doctors, and with divers on the Scaffold] with a smiling Countenance he took his Leave of all Men, and desir'd their Prayers to Almighty God for him; and then he prepar'd himself to die, pulling off his Hat, Band and Doublet; and then tying a Handkerchief about his Face, most willingly and patiently laid down his Body, submitting himself to the Power of the Executioner, who with one small Blow sever'd his Head from his Body, which was receiv'd by his Servants in a Scarlet Cloth, and put into a red Silk Bag, and with his Body put into his Coffin, and so carry'd into the Tower, where it was bury'd in a Grave which he himself saw made for him in the Morning.

F I N I S.

*The Tryal, Conviction, Condemnation
Confession and Execution of Brodway and
Fitz Patrick, two Servants of the late Earl
of Castlehaven. Together with the Count-
ess her Examination at the King's Bench
Bar.*

ON Monday the 27th of June 1631, the Marshal of the King's Bench brought them to the Bar, where was a Jury of sufficient and able *Wiltshire* Men, empanell'd to go upon and try them.

The Countess of *Castlehaven* her self was in Court to give Evidence against *Brodway*, and she came in upon the Instant ; when the Lord Chief Justice *Hyde* demanded of her, whether the Evidence she had formerly given at her Lord's Arraignment were true, and the full Matter of Charge she had then to deliver against the Prisoner ? Whereunto she answer'd it was. My Lord said, *Madam, you have sworn that Brodway Prisoner at the Bar, hath lain with you by Force, which may be, and yet no Act committed ; did he enter your Body ?* She said that in her former Oath taken, when she testify'd he lay with her by Force, her Meaning was that he had known her Carnally, and that he did enter her Body. Then was she wished to look on the Prisoner ; unto which Motion and Commandment she made a short Reply, That although she could not look on him but with a Kind of Indignation, and with Shame, in regard of that which had been offer'd unto her, and she suffer'd by him, yet she had so much Charity in her, and such Respect to God and his Truth, that she had deliver'd nothing for Malice, and therefore hop'd
that

that her Oath and Evidence thereupon should be credited, and so desir'd thereupon to be believ'd and dismiss'd; which being granted, she departed with as much Privacy as might be into her Coach.

Fitz Patrick being ask'd concerning his Guiltiness or Innocency, demanded who were his Accusers? The Lord Chief Justice answer'd, you have accus'd your self sufficiently. *Fitz Patrick* reply'd, that he thought neither the Laws of the Kingdom requir'd, nor was he bound to be the Destruction of himself; what Evidence he had formerly given, was for the King against the late Earl, and no further.

The Lord Chief Justice reply'd, *It was true, the Law did not oblige any Man to be his own Accuser, yet where his Testimony serv'd to take away any one's Life, and made himself guilty of the same Crime, therein it should serve to cut him off also.*

Then the Jury demanded of the Court satisfaction concerning the Words of the Statute, *Which run to charge him alone to be, and accounted a Felon in Law, that committed Buggery with Man or Beast.* [For which Fact the late Earl was only Guilty, and had suffer'd.]

The Lord Chief Justice reply'd, *That forasmuch as every Accessary to a Felony is a Felon in Law, so he being a Voluntary Prostitute, when he was not only of Understanding and Years to know the Heinousness of the Sin, but also of Strength to have withstood his Lord, he therefore was so far forth Guilty.*

Whereupon the Jury found the Bill, and the Sentence of Death was pass'd on them both, and they were deliver'd and committed to the Sheriff of *Middlesex*, who [after he had suffer'd them to have some Repast at Mr. *Hill's* in the *Palace-Yard*, and Conference with their
Friends]

Friends] carry'd them to *Newgate*, where they behav'd themselves civilly and religiously.

Upon *Wednesday* the 6th of *July* they were brought to *Tyburn* in two several Carts, *Fitz Patrick* first, and set under the Beam towards *Paddington*, appropriated [as is said] to and chosen by Romanists; where when the Executioner had ty'd the Halter about his Neck, he thus deliver'd himself.

Gentlemen,

FOrasmuch as I am here, and as it were upon the Instant to suffer Death, I desire all loving Subjects and Members of the Church of Rome to pray for me. [When no Man, for any Thing could be perceiv'd, rejoicing at that Motion, or signifying a Willingness so to do] he proceeded to a Kind of Prayer to our Saviour, his Mother, and the Saints; in which he was presently interrupted by some Gentlemen standing on that North-side, who told him that the Beginning of his Prayer was good, for that he offer'd it to *Christ Jesus*, in whom only Salvation is to be found, as for the *Virgin Mary* and the Saints, they could do him no good. But notwithstanding that he persisted, saying, *O Yes, the Blessed Virgin never forsook or fail'd any that trusted in, or call'd upon her, and therefore he would depend upon her and the Rest of the Saints*, and so proceeded to an Exhortation to *Mr. Brodway* to cleave to the same Opinion and die in the *Romish Faith*; for which to have him do, he said, if he had it, he would give the whole World. Unto which Motion *Brodway* gave no Answer, or seem'd at all to regard it. Then he proceeded with Relation how he had been examin'd by my Lord Chief Justice, touching the Corruptness of my Lord of *Castlehaven's* Life, wherein he no ways confess'd any thing to prejudice the said Earl.

Fitz Patrick's Speech at his Execution.

That being within three Days after sent for before the Lords of the Council, my Lord *Dorset* [against whom he did once or twice Envy, yet freely forgave him] had intrapp'd
F and

and ensnar'd him to his Destruction, for that saying upon his Honour, and speaking it in the Plural Number [as the Mouth of the whole Board] that whatsoever he deliver'd should no ways prejudice himself, he thereby got him to declare the Earl guilty of the Sin of Buggery; wherein himself being a Party was the only Cause he came now to suffer Death; for which his Lordship's Skill and Policy in justifying him, together with Dispensation of his Promise and Oath, he freely forgave him; saying further, the said Lord had done him no Wrong, because he therein was but an Instrument to send him out of this World into a better. Then he proceeded to a Kind of Demand of the Company, or rather a Rehearsal of the Earl's denying the Sin at his Death; touching which he desir'd and wish'd my Lord had not so spoken, [if he did] for it was too true his Lordship had both Bugg'd him, and he his Lordship. That it was true [for some private Discontentment] he bore a little Malice to the Earl and Skipwith, for which he ask'd God Forgiveness. That Brodway, if he had done anything to the Countess, he did it not out of his own ill or corrupt Nature, but was provok'd and perswaded to it by the Earl.

He clear'd the young Lord, as never being any Occasion or Means of his Father's Death in hiring or perswading him to give Evidence, as he had done. He confess'd he had liv'd an ill Life, in that he had delighted in Drinking, Whoring, and all manner of Uncleaness, but now as he was heartily sorry, so he doubted not of Mercy of Almighty God to pardon and forgive him all his Sins, through and for the Merits and Mediations Sake of Christ Jesus, the Blessed Virgin, and the Saints in Heaven.

That he had fallen or run into these erroneous Sins, and especially that which he came to die for, in Regard and by Reason he had neglected, and not so duly as he should have done, his Repair to his Ghostly Father, to make Confessions and take Instructions from him. That after he did make and had his Sins known to the Priest, he was not only sorry for them, but also resolv'd never to come into my Lord's House again; yet true it was he did, but it was through Frailty, and because he was not furnish'd of another Place. So turning again to Mr. Brodway, and perswading him to embrace the Romish Faith, wherein as he perceiv'd his Labour was in Vain, so the Sheriff and other Persons of Quality willed him to forbear and shut up his Discourse, unless he had any thing

thing more to say to the purpose. Whereupon praying for the King, Queen, and State, he betook himself to private Prayer, and therein for the most part continu'd to his Death.

Mr. Brodway came [and as it was thought by the Company a true Penitent] and after fetching a deep Sigh at the Sight of the Tree, he lifted up his Eyes and Hands towards Heaven, making and saying to himself two short Prayers, so attending *Fitz Patrick's* Discourse, he sat in private Meditation, often making it manifest he was in Prayer most of the Time, and also rejoicing at the Assembly's well wishing of him, for which he return'd (tho' feign'd) Smiles and Thanks. His Time being come to stand up, and have the Halter put about his Neck, and so to declare himself, he willingly suffer'd the one and proceeded to the other. First asking *Fitz Patrick* if he had done, he pull'd a Sheet of Paper out of his Pocket, which being writ broadways, he could not spread it to read it, therefore desir'd to have his Hands untied; which was done, and he read it distinctly to the Assembly; the Effect whereof was to declare himself guilty in the Sight of Almighty God, of Death and Damnation; for that he had broke all the Commandments in Thought, Word, and Deed, and Sinn'd in Pride of Life, Lust of the Eye, Concoits of his own Beauty, matchless Strength, and other Natural Gifts; in Desire of Revenge, not pitying the Poor, unlawful Riches; not repairing to Sermons, not observing the Sabbath, &c. For all which and other his Sins whatsoever he both desir'd of, and trusted in God for Pardon, and that through and for the only Merits of our Saviour Christ Jesus his bitter Death and Passion. He express'd a strong Assurance, which his very Soul had, of Forgiveness, in that through the Assistance of the Holy Ghost he had laid such hold on Christ, as he had done. This Paper writing contain'd his Confession and Prayer, also [as I remember] something of his slender Guiltiness and Desert of Death, but not much. Then delivering that to the Sheriff, he open'd a little Book entitled *Learn to Die*, and desir'd the Company to join with him; so reading over three short Prayers, the last whereof was compos'd only of Confession, and for every Trespas calling upon God for Pardon, which Prayer he pronounc'd with great Comfort at every Amen, clap.

clapping himself on the Breast, he closed it up and gave it to his Ghostly Father, a Minister and Kinsman of his, who came along with him on Horseback close by the Cart. Then he pull'd out a little Paper, which contain'd an excellent Prayer of his own making; and when he had read, and every one joined with him in the *Amen*, he commended it also to the Sheriff; and then throwing away his Posie of Flowers, he rouzed up himself and said to this effect :

Gentlemen,

Brodway's
Speech at
his Execu-
tion.

THough true it is what I formerly have deliver'd touching my Guiltiness and Desert of Death, my meaning was, and is, only in respect of my Sins towards God, and no further for Breach of the Laws of the Kingdom, than only lying once with the Lady Castlehaven, through perswasion of the Earl who was then in Bed with her, and using some small force for the purpose, wherein and by, he did emit, but not penetrate her Body: He said that he came not to my Lord with a Desire or Intent any ways to serve him, but was rather inclined for the Sea, only Mr. Skipwith had drawn him thither for Society's sake, where not bearing from his Friend concerning his intended Voyage, and being more kindly repelled by the Earl than he looked for, he staid from Week to Week, and Month to Month, contrary to his Intention. Then my Lord making him his Bed-fellow, did one day, when Skipwith was with him in the Garden, [but walking some what apart] break out in Speeches to him to this purpose: Brodway, thou art young, lusty and well favour'd, and therefore can't but prevail with any Woman thou attemptest, wherefore for that I am Old and cannot live long, my Wife wholly delighting in Lust, which I am neither able nor willing to satisfy, thou may'st do well to lie with her, and so pleasing her, after my Death marry her, and thereby raise thy Fortune. That Fitz Patrick knew my Lord had solicited him again and again, as bearing him in that Language when they have been in Bed together, and he lying at the Bed's Feet, which to clear he charged Fitz Patrick to speak his Knowledge; who reply'd, 'twas true: Then he was asked by one of the Lords, whether, when my Lord solicited him, my Lady desir'd to have him know her carnally? To which he said, no, he would not wrong her, though she bated him infinitely. But said he, I know well, if I were minded and able to proffer, she would not say nay, for that Mr. Skipwith and Amptill lay with her commonly.

That

That Skipwith confess'd to him, how he had often known her, and gotten a Child upon her, which she like a wicked Woman had made away, which was the only and sole occasion, he the said Skipwith now hated her, and therefore had turn'd to the young Lady Audley; all which he presum'd Skipwith would confess upon his Oath. That the Countess was the wickedst Woman in the World, and had more to answer for, than any Woman that liveth, as he thought; at which word that Lord which asked him the former Question, said, grow not into a Passion, Mr. Brodway, and speak nothing for Malice; he answer'd, God forbid I should, I am here in Charity with all living People, and do as freely forgive my Lord Castlehaven, as I do desire God to forgive me; but what I speak is true, as I shall presently answer before him that redeem'd me, and the Holy Ghost who sanctify'd me: To whom be all Honour and Glory, now and evermore. Amen.

Then he proceeded further and said, That my Lord would have had him done it long before; for one Night coming to him to his Bed-side, he caught him and bid him come to bed to him and his Wife; that thereupon he made to him as if he would, but being got from him, departed the Chamber, never intending to do so foul a Deed, and that for the Reasons aforesaid, he hated her of all Women living. Howbeit that one time, satisfying my Lord's Desire, he came to Bed to them, where being, [Grace fled] Nature provoked him to a kind of Desire, and he emitted, but did not enter her Body, as he hoped for Salvation; that he never knew any Woman carnally whilst he lived in my Lord's House.

That it was not his Intentions to bring to Light either my Lord's, or my Lady's Shame, but that when he was upon his Oath he could not but speak the Truth; his Nature being never prone to Lying, or if it were in his Youth, the good Correction of his Parents had wear'd him from it; saying, that his Mother had often told him the old Proverb, A Lyar is worse than a Thief; and he thought he had more Stripes for that than all Faults else whatsoever. That he had, as he hoped, spoke nothing of Moment against my Lord, at his Arraignment, he could not now remember every thing, if he had, he desir'd Pardon; and so concluding his Speech, prepar'd himself for Death, pulling out a lac'd Handkerchief, desir'd the Executioner to tie it about his Head; then pulling off his Garters, and unbuttoning his Doublet, Mr. Goodcoale the Minister, asked him if he would not have a Psalm? He said

said yes, with all his Heart. Then he read the 143 Psalm, which Mr. Broadway pulling up the Handkerchief, sung very cheerfully, never changing Colour at all. The Minister desired him to make Confession of his Faith, so he pronounced aloud the Belief.

Mr. Goodcoale said, these are the Articles of the Christian Faith according to the Church of England, into which Faith you was baptized; pray signify whether in that Faith you intend to dye, he said yes, for there is no other Faith [as I suppose] in and by which a Man can be saved. Then he made request to the Sheriffs and those of his Kindred there, that he might be bury'd in his own Country; it was then told him that it was granted, and Order taken to have it so, wherefore he should now mind his Prayers. When his Kinsman asked if he had never another Prayer in his Pocket? He said no. Then asked Mr. Goodcoale if he would say after him? And he said yes, with all my Heart, but first he desir'd the Executioner to wipe his Hands again, which being done, Mr. Goodcoale said a short Prayer to recommend his Soul and Body to Almighty God, in and for the Merits of Christ's Death and Passion, so that he might live and reign with him for evermore; to which the dying Party and all the Spectators said, Amen. Then he lifting up his Hands to Heaven with these Words; Lord Jesus receive my Spirit, the Cart was drawn away, and some of his Friends beat him on the Breast to rid him of his Pain. Fitz Patrick beheld him hanging, so lifting up his Hands, and commending himself to God in manner as afore-said, his Cart was likewise drawn away.

F I N I S.